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HIGH COURT OF CHHATTISGARH AT BILASPUR
W.P. (S) No. 3422 of 2007

Petitioner — Sarita Madharia W/o Mr. D.K. Madhariya, Age-33 years, R/o – Subhash Chowk, Bhilai-3, District-Durg (C.G.)

Versus

Respondents

1) State of Chhattisgarh Through-The Secretary, Revenue Department, D.K.S. Bhawan, Raipur (C.G.)
2) Under Secretary, Revenue Department, D.K.S. Bhawan, Raipur (C.G.)
3) Collector, Durg (C.G.)
4) Ravindra Swarnkar, Patwari at Halka No. 33, Tahsil Gunderdehi, Distt. Durg (C.G.) Through-Collector, Durg.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

(SB: Hon'ble Mr. Justice Satish K. Agnihotri)

Shri Ajay Shrivastava, Advocate for the petitioner.
Shri Yashwant Singh Thakur, Govt. Advocate for the respondents No. 1 to 3/State.

ORDER
(Passed on this 17th day of July, 2007)

1. The petitioner, who is working as Patwari at Patwari Halka No. 26, Tahsil-Durg, has been transferred to Patwari Halka No. 34, Tahsil-Balod by the order dated 13.6.2007 (Annexure P/1). The petitioner questions the legality and validity of the impugned order dated 13.6.2007, as being contrary to the transfer policy 2006-2007 (Annexure P/4).

2. According to learned counsel appearing for the petitioner, there was complete ban on transfers, but in special cases, transfer could be made in public interest and in administrative exigency in co-ordination with the Chief Minister through the Chief Secretary. Learned counsel further submits that the order has to specify that the same has been effected after taking approval in co-ordination with the Chief Minister. In the

present case, no approval in co-ordination with the Chief Minister has been obtained.

3. Shri Yashwant Singh Thakur, learned Govt. Advocate appearing for the respondents No. 1 to 3 submits that though the Collector has power to transfer the petitioner, but the transfer policy has not been followed, as no approval in co-ordination with the Chief Minister has been obtained.

4. In view of categorical statement made by learned counsel appearing for the respondents No. 1 to 3, the transfer order being in violation of the transfer policy, which is issued in the name of the Governor under Article 166 of the Constitution of India, is bad and deserves to be quashed in respect of the petitioner.

5. In normal circumstances, this Court has limited jurisdiction to interfere in transfer matters, however, in case of proved malafide, non-competence of the authority passing the transfer order and order not being in conformity with the policy, rules and regulations, this Court, as in the present case, is competent to interfere with the same.

6. Thus, the impugned order dated 13.6.2007 (Annexure P/1), in respect of the petitioner, is quashed. The writ petition is allowed. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

B/-